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# THE CURRENT SITUATION & CHALLENGES IN PUBLIC PRIVATE DIALOGUE (PPD) ASSESSMENT

**JULY 2016**

This publication was produced for review by the United States Agency for International Development. It was prepared by the Institute of Public and Private Policies (IP3) as subcontractor to SEGURA Consulting LLC with the United States Agency for International Development (USAID). The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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## Assessment

### **DISCLAIMER**

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# THE ROLE OF THE PUBLIC PRIVATE DIALOGUE ON THE BUSINESS CLIMATE. EVIDENCE AND CHALLENGES

Dialogue between the public and private sectors is not a new concept. It has been a feature of public life for decades in some countries. But recent years have seen a surge in interest in PPD as a means for promoting private sector development.

PPD has become an important part of the private sector reform process, and it is here to stay. This means it is increasingly necessary to promote understanding of what PPD is, and what it can and can't achieve.

PPD comes in many forms. It can be structured or ad-hoc, formal or informal, wide-ranging or focused on specific issues. It can be initiated by forward-thinking governments, frustrated entrepreneurs, or third parties such as international donor agencies. Sometimes it involves only a few private sector representatives, sometimes it includes labor unions and civil society groups. It can take place at the local, national, or international level. It can be organized by industry sectors, clusters or value chains, or it can cover cross-cutting economic issues.

The main potential benefits of PPD include:

- Facilitating investment climate reforms by supporting champions for reform
- Creating momentum
- And accelerating the reform process

Public-private dialogue has a range of potential impacts, but it does not achieve anything on its own – it works by facilitating, accelerating, or cementing other ongoing initiatives, ones which without the boost of stakeholder pressure would falter or fail.

The most tangible benefits of PPD are the policy reforms it can precipitate. These can include new legislation, the amendment or scrapping of existing legislation, removal or simplification of regulations and controls, standardization of procedures across different jurisdictions, and establishment of new institutions.

While the structured consultation of a public-private dialogue mechanism can have an immediate effect in improving the quality of particular reform efforts, its deeper benefit lies in building a sustainable constituency for investment climate reform.

PPD are encouraged on promoting better diagnosis of investment climate problems and design of policy reforms. Governments that listen to the constraints of the private sector are more likely to devise sensible prioritization plans and workable reforms. This, in turn, can encourage investors to take a longer view and cooperate with laws and regulations.

When governments and businesses are mutually mistrustful and uncommunicative, investors lack confidence and are disproportionately drawn to short-term returns and the informal sector.

PPD is focused on making policy reforms easier to implement. When entrepreneurs understand what a government is trying to achieve with a reform package, they are more likely to accept and work with the reforms in practice.

Legislation may get onto the statute book but it has little effect in reality because of lack of follow-through. PPD can help to ensure that reforms actually take effect on the ground, by helping disseminate awareness of the changes, feed information back, and keep up the pressure for action.

Promoting transparency and good governance, the PPD initiative are taking of a broader view by setting an example of openness and rigorous cost-benefit analysis, and by creating pressure of public scrutiny.

Without the structure imposed by PPD, business advocacy tends to find a narrower outlet: one sector lobbies for a specific reform, which then has unwelcome effects in other sectors, which lobbies for its reversal, and so on. The monitoring and evaluation systems put in place by a PPD initiative promote a culture of compliance and entice governments to perform regulatory impact assessments.

At its best, PPD can save time and effort by establishing checks and balances for private sector demands, allowing the ramifications of measures to be discussed before they are implemented, and ideally nurturing in the private sector a more rounded view of what's good for the economy as a whole. The example of openness set by a PPD can have effects for governance role of both public sector agencies and corporations, by seeking to set a standard to which the media and public may hold the participants in their other affairs.

Building an atmosphere of mutual trust and understanding between public and private sectors, PPD can improve social cohesion and civil society. This effect might be seen as marginal or less significant, but in several cases a sustainable dialog between the public and private sectors have had in various cases an improved level of trust, understanding, and cooperation.

In many countries, mistrust and misunderstanding between the public and private sectors needlessly hampers reform efforts. PPD can build consensus, trust and understanding between the public and private sectors simply by bringing people together on a regular basis and allowing them to get to know each other.

PPD creates both an opportunity and a risk when other lines of communication between government and society are weak.

- Done well, it can enable the voices of stakeholders to be heard by a government that would otherwise be deaf to their concerns, and can give governments a sounding board, which will improve the quality of their policymaking.
- But done badly, it can give unhealthy influence to an unrepresentative group of stakeholders, reinforce links between politicians and lobbyists, and provide a veneer of legitimacy for bad policies. Strategies for tackling this risk include an explicit commitment to transparency, numerous working groups to ensure a broad base, and the incorporation of monitoring and accountability mechanisms.

Another way of to ensure good effect is that no topics are off-limits for discussion. If PPD initiatives do not make special efforts to include small and medium enterprises (SMEs) and those based in provinces, they can be dominated by big businesses or businesses based in main cities.

There are obvious reasons why it is easier to engage with representatives of a small number of large organizations than with a large number of small organizations – it is simpler to organize, and they are more likely to speak with a unified voice. Given the difficulty of establishing dialogue between the government and the private sector, the path of least resistance is for the government to focus on consulting a relatively small number of relatively large firms. This unavoidable dynamic has often led to the interests of SMEs being under-represented in PPD.

SMEs can also find themselves effectively excluded from consultation because business associations, which theoretically represent their interests, in practice listen more to their larger members. Strong business associations that genuinely speak for SMEs are helpful in making sure that the concerns of SMEs can be heard in dialogue.

An alternative or complementary strategy is to pursue different programs that bypass business associations and seek input directly from individual small business entrepreneurs. The new advocacy base created from this channel might be introduced to the existing business membership organizations.

If a PPD initiative is poorly planned and unfocused, it can degenerate into a talking shop, which leads to disillusionment, disengagement and loss of credibility, giving strength to opponents of reform and slowing down the reform process. Discussions are long and unfocused, no concrete results are achieved, people lose interest and attendance declines.

Meetings are less likely to degenerate into talking shops when the agenda is strict and clear and communicated well in advance, and when there are concrete proposals on the agenda that require decisions. An experienced and resourceful organizer can head off the risk of meetings getting diverted into tangents by managing expectations in private conversations beforehand.

If built too closely around a particular individual, a PPD can risk becoming a one-man show, which collapses when the key person loses interest or moves on. It is inevitable that competitiveness partnerships will rely to some degree on the enthusiasm and commitment of key individuals and the personal involvement of top-level government figures is one of the determining features of success. But building the partnership too closely around individuals is a significant risk.

Logic would suggest that outreach and public relations efforts that energize the public to look favorably on competitiveness partnerships can give individual politicians an incentive to be enthusiastic and minimize the effects of changing personnel.

Part of the problem with PPD losing steam when an individual becomes less involved can consist of unrealistic expectations initially raised by that individual's involvement. If not accompanied by sufficient efforts to build a broad base of support, PPD can become politicized by being closely associated with a particular party.

In some countries, leading businesspeople may also be leading figures in opposition political groups, making it difficult to persuade governments to engage or to keep a PPD politically neutral. Governments may be tempted to sideline opposition figures, with the result that PPD stands less chance of persisting across changes of administration.

An effective outreach program can help de-politicize the process by emphasizing the practical benefits to real people. Presentational skills are key factors here, as battles must be chosen carefully. It makes sense to concentrate on explaining reforms that can be framed simply so that everyone can understand. Direct outreach to parliamentarians and local politicians – indeed, to decision-makers of any political level who are in a position to facilitate or obstruct the approval or implementation of reforms – can also help to defuse political tensions.

If not sufficiently well coordinated with existing institutions or other dialogue mechanisms, duplication of efforts can overburden and confuse participants. Some PPD mechanisms may, paradoxically, become victims of their own success. Similar organizations may spring up seeking to get in on the act, duplicating the work and diluting the effectiveness of the original by overburdening individuals and confusing lines of communication.

If PPD mechanisms are set up as initiatives, separate from any existing institution, it can be hard for them to avoid competing with institutions. Indeed, one of the reasons a new competitiveness partnership may be needed is that existing institutions are failing to fulfill their theoretical role.

But it is necessary to give careful thought to whether a PPD will be influencing on ground already, adequately and with a wide effect. Sponsors and donors must take care not to shortcut existing

institutions, both on the government and private sector have to collaborate, unless the cases when it is really not possible.

Transparency of process and inclusion of all relevant parties are the key factors in bringing this about. These risk factors are raised not to suggest that competitiveness partnerships are fraught with danger, but to show how awareness and careful planning can help participants to avoid potential pitfalls.

## **BACKGROUND OF THE REGULATORY ACTION IN ALBANIA**

The economic and political developments of Albania and the intensification of the process of the economic integration, had led the Albanian Government move toward the activities aiming the improvement of the procedures on drafting new laws and improving existing ones.

This is a process that has already started and is expected to continue over the next several years.

The Government has recognized that a more institutionalized approach to regulatory reforms, together with stronger capacities, is crucial for the sustainability of reform efforts. Therefore, an extensive Regulatory reform, initiated by the Albanian Government in October 2005, is focusing on the improvement of the quality of regulations affecting businesses, as well as on strengthening the institutional infrastructure for their implementation.

To address these issues, the Government has established institutional infrastructure to support regulatory reform and has developed a Regulatory Reform Action Plan (March 2006) to guide the implementation of reform actions over the following three years.

This Action Plan established a comprehensive and dynamic program for regulatory reform in Albania,

- addressing urgent needs regarding harmonization and simplification of the regulatory reform in important sectors,
- Initiating the framework for the establishment of institutions and procedures that will guarantee a friendly, transparent and efficient business environment. This Plan proposed new initiatives for the compilation and application of qualitative regulatory principles and good governance in Albania, and simultaneously aimed to guarantee the establishment of a mechanism that the new regulatory framework would have to respect in order to be in compliance with such principles.

To support the Government's efforts to intensify regulatory reform, the World Bank proposed a Business Environment Reform and Institutional Strengthening (BERIS) project, which the Albanian Government signed in November 2006.

The new legislation initiatives and regulatory actions in Albania are being taken within the frame of the Integrated Planning System (IPS), a three-year plan (2006-2008) guided from the Albanian Government. This forward planning system is based on longer term sectorial and inter-sectorial development strategies and driven by the European Integration short and medium-term priorities, including the approximation of the legislation with the acquis. The system was also based on the medium-term (four-year) Government Program, with law initiatives included in the planned reforms.

Based on an Integrated Planning Calendar forwarded to the line ministries (and independent agencies) at the beginning of each year, each ministry was advised to produce an Integrated Plan that contains the major commitments for the core policy, the legislation initiatives and the financial processes.

Regulatory actions were a part of the Integrated Plan of each ministry involved in the Regulatory Reform. In addition, a separate Action Plan of Regulatory Reform dealt specifically with regulatory actions.

# PPD IN ALBANIA

Public consultation and transparency in Albania are formalized, in the Rules of Procedures of the Government as well as in the Rules of Procedures of the Parliament.

A consultation with the structures of civil society whose activity is related to the draft-law object and effects is intended since the first steps of the law-drafting process. Draft laws of particular importance can be discussed in broad circles where representatives of state institutions, NGOs, experts of international organizations or institutions etc. can be included.

The consultation process takes place in the law-adopting procedures in the Parliament, but is not mandatory. The standing committee of the Parliament may also organize public hearings with experts, representatives of the civil society and representatives of groups of interest.

Publicity of law-adopting activity is another requirement of the Rules of Procedures of the Parliament, and is more complete in comparison to the public consultations.

In practice, although there are cases where the public consultation goes even beyond the requirements of the Rules, business organizations and NGOs often complain about the limited time they receive for expressing their opinions or, in extreme cases, about not being asked at all.

While transparency and information sharing should be a part of each step of the law drafting process as one way to improve the situation, public consultation should also commence at the initial stage and accompany all the law drafting and adoption steps by mobilizing expertise and absorbing interest groups' views.

The lobby groups in Albania are not legally institutionalized, but different groups of interests have been active in the legislation adoption process of the country through their representative organizations, including business associations, trade unions and NGOs. The contribution of the lobby groups in the law adoption process has increased in proportion with the quality of interests-group representation.

## THE LEGISLATIVE FRAMEWORK OF THE PPD IN ALBANIA

### MONITORING

Monitoring is an effective instrument for the management of the public-private dialogue process and the demonstration of its purpose, performance and impact. Monitoring technique enables better overall planning, can cause potential advocacy, and provide both internal and external motivation to promote more effective implementation. The monitoring framework should provide to the private sector the possibility to monitor the internal processes, responsibility and transparency.

PPD should develop a basic evaluation to measure its effectiveness in order to enable the partnership to measure how well it is achieving its goals over time and giving its provided benefits. The responsibility for monitoring should be shared among all PPD stakeholders and a participatory approach should be used in its undertaking. Monitoring includes tracking the implementation status of approved reforms. A PPD can establish 'follow-up teams' or committees to track how well approved reforms are achieving their intended objectives.

The monitoring framework of the PPD process in Albania also relies on some laws which are related directly or indirectly to this point. Law no. 119/2014 is related "On the right to information".



Article 1 of this law states that this Law gives the right to everyone to know the information produced or held by the public authorities. By this is intended to guarantee public's understanding of the information, in the framework of exercising individual's rights and freedoms in practice, and forming views on the state and the society.

In the Article 3 of Law no. 119/2014 is stated that everyone has the right to receive any public information it needs without explaining the reason and it should be informed if the public authority has the requested information.

Everyone has the right to access public information, and the information requested cannot be refused to people unless it has personal data of another person.

According to Article 7, some categories of information are made public on their internet sites without request in easily understandable and accessible formats:

- a description of the organizational structure, functions and duties of the public authority;
  - full texts of;
  - Conventions ratified by the Republic of Albania,
  - Laws;
  - Bylaws;
  - Codes of Conducts;
  - All policy documents;
  - The Manual and any other documents relating to the functions of a public authority affecting the general public;
- information on the procedures to be followed to request information, and the electronic mailing address for information requests as well as appeal procedures for the corresponding decision;
- data on the location of public authority offices, work schedule, name and contact of the coordinator for the right to information;
- details on the education, qualifications and salaries of officials, who according to the law must declare their assets, salary structures for other employees, a description of the selection procedures, powers and duties of senior public authority officials and the procedure they follow to make decisions;
- monitoring and control mechanisms for the public authority, including strategic work plans, audit reports by the Supreme State Audit or other entities, as well as documents containing performance indications of the authority;
- Details on the budget and spending plan for the current and previous financial years, as well as any annual reports on budget implementation. In those cases, where the public authority is self-financed by the license fees or any other form of direct financing from entities regulated by it, documents on the state of liabilities paid by the licensed entities are also made public;
- information on the procurement procedures or concession/public-private bidding process, respectively under the provision of Law No. 9643 of 20.12.2006, "On Public Procurement" and Law No. 125/2013, "On concessions and public private partnership" performed on behalf of public authority, including:
  - list of contracts signed;
  - amount contracted;
  - signatories and description of services or goods contracted;
  - information on the implementation and monitoring of contracts, as well as various policies and guides;
- information about the services public authorities offer to the public, including the quality of service standards;

- any mechanism and procedure for making claims and complaints relating to acts or inactions of the public authority;
- any mechanisms or procedures interested persons may use to express their opinions or affect in any other way drafting of laws, public policies or discharge of public authority functions;
- a simple description of the system used by the public authority to keep the documentation, types and forms of documents and categories of information made public without request;
- register of requests and responses under Article 8 of this Law;
- a description of categories and forms of social assistance, subsidies given by the public authority and procedures to receive them;
- information and documents frequently required;
- Any other information deemed useful by the public authority.

According to Articles 14, 15, and 16 all information requests are taken through the unique portal e-albania.al, or where appropriate, through the official website of the public authority on the internet. Requests related to written documents, are handled by making available to the applicant a full copy, in the same format as the one used by the public authority, except in special cases or full copy of the information via email, when the information exists in such a form or can be converted.

The deadlines for receiving the required information are between 10-15 working days depending on the requested information. The deadline should not be exceeded to more than 5 working days for the voluminous information. The applicant should be always noticed if the requested information requires more time than the deadline or when the required information is available online.

## ADVOCACY

The improvement of the effectiveness of public-private dialogue and advocacy is one of the most effective ways of delivering a sustained improvement in the business environment. The public-private dialogue and advocacy capability includes:

- Supporting government to better consult and dialogue with the private sector
- Improving the organizational and advocacy effectiveness of business membership organizations
- Supporting the creation of effective and sustainable dialogue platforms
- Facilitating issue or sector-based dialogue

Based on the Article 11 of law no. 119/2014 “On the right to information” the information request shall be in writing with all the required points defined by law and delivered by hand, mail or email, with the correct identity of the applicant and his/her signature. In every case, the request is recorded in the Register of Requests and Responses and assigned a serial number.

As clarified in the Articles 12, 13 of law no. 119/2014 if the information request is unclear for the public authority, he should contact the applicant for the necessary explanations no later than 48 hours. If no information is found by the public authority for the requested information, it should be transferred no later than 10 days to the competent bodies and inform the applicant for the forwarding of the application.

Public administration services are free of charge. Disclosure of information can be made against a fee, previously arrived at and made public by the public authority on its website and in premises where members of the public are received.

According to Article 17 of law no. 119/2014 the information may be restricted when it harms the private life, trade secret, copyright, patents, national security, prevention, investigation and prosecution of offences, conduct of inspection and auditing procedures of public authorities, conduct of an administrative investigation within a disciplinary proceeding, formulation of state monetary and fiscal policies, quality of parties in court proceedings and the conduct of litigation, preliminary consultations and discussions within

or between public authorities on public policy development, progress of international or intergovernmental relations.

The cases when the required information is not given, failure to implement the institutional transparency program, etc. are punished with administrative sanctions as stated in Article 18 of the law no. 119/2014. The punishments, determined by a fee, are paid in monthly installments given in the Article 21.

As stated in the Article 20 the Commissioner for the Freedom of Information and Protection of Personal Data reports to the Parliament or Parliamentary Committees at least once a year or whenever required by them. He may also ask the Parliament to be heard on issues he considers important. The reporting shall contain data and explanations for implementing the right to information in the Republic of Albania, as well as transparency programs.

In writing the report, the Commissioner for the Freedom of Information and Protection of Personal Data collects information from public authorities and non-profit organizations that have as their mission the protection of freedoms and human rights, highlighting the relevant communications.

According to the Articles 24, 25, 26 of the law no. 119/2014 every person has the right to appeal administratively to the Commissioner for the Freedom of Information and Protection of Personal Data in accordance with this Law and the Code of Administrative Procedure when it considers that his rights under this Law have been violated.

Whenever the applicant or the public authority disagrees with the decision, he has the right to appeal the decision of the Commissioner to the competent administrative court.

Every person, who has suffered damage due to violation of the provisions of this Law, has the right to seek compensation for damage caused, in accordance with the Law No. 7850, dated 29.7.1994, "The Civil Code of the Republic of Albania ".

## **PARTICIPATION**

A consistent feature of competitiveness partnerships is the correlation between the progress achieved and the seniority of government figures involved.

Technical staff at ministry level is vital participants in PPD as they are the ones who will be asked to draft laws to implement the recommendations of dialogue. A good solution is to involve technical staff from ministries and agencies in working groups, and have high-level political participation at plenary level.

Involve people, who have the interest to be involved, not those who look the process as a source of fanatical benefits. Institutions volunteering their own resources to support PPD are more likely to be useful participants than institutions that join PPD only on compensation bases. Emphasis should move from contractual obligations towards promoting the idea of engagement and commitment for its own rewards.

Private sector intermediaries should be included whenever possible. Intermediaries such as business membership organizations and chambers of commerce can help to reach out to thousands of businesses without making meetings unwieldy. But all depends on whether they are in touch with their members.

Private sector participants in PPD should ideally be widely respected, dynamic, open-minded, and unafraid to speak their minds. State-owned enterprises occupy a unique role in PPD as they have vested interests that do not always coincide with those of the private sector at large. Special consideration needs to be given to whether and how to involve state-owned enterprises in PPD.

The Article 4 of the law no. 119/2014 "On the right to information" affirms that the public authority, within 6 months of this Law entering into force or its creation, shall implement an institutional

transparency program, to determine the information categories to be made public without request and the disclosure method of this information.

In preparing the draft transparency program, the public authority shall take into account the best interest of the public and in particular to ensure maximum access to public information; to make available without request as much information as possible, to reduce the need for individual requests for information; models approved for the public authority category by the Commissioner for the Freedom of Information and Personal Data Protection.

According to Article 5 and 6 of the above mentioned Law, the review of the transparency program shall be conducted according to the same procedure, used for its adoption. The timeline for reviewing the transparency program may vary, depending on the nature of each public authority, but in any event, it cannot be longer than 5 years.

The Commissioner for Freedom of Information and Personal Data Protection approves and distributes the model transparency programs for different categories of public authorities, in accordance with the current legislation on personal data protection, within 3 months of this Law entering into force.

Article 9 states that the public authority enables that the information given at least once to an applicant is made available in the most practical way possible to all other persons who may require it in the future. Information requests for information recorded in the Register of Requests and Responses are given no later than 3 working days from the submission of the request.

The law no. 57/2014 “ On the establishment and functioning of the National Economic Council” states at Article 1 and 2, that the purpose of this law is the establishment of the National Economic Council (NEC) to guarantee the institutional collaboration and public – private partnership for the development of economic policies, ensure dialogue and consultation between government administration bodies and the private sector, as well as increased transparency in public decision making and representation of the private sector in this process. Determination of principles and procedures based on which the dialogue and consultation process in NEC rests and develops.

This law is implemented in relation to initiatives and practices of government administration bodies for the changes in laws or by-laws as well as projects for changes in policies which have an impact on the economic area more specifically:

- Government strategies and programs related to economic development;
- Preparation of government budget and fiscal packages;
- Policies pertaining to privatizations and public procurement;
- Investment promotion policies;
- Policies pertaining to commerce and business development;
- Policies pertaining to competition, market supervision and consumer protection;
- Employment and remuneration policies;
- Education and research & development policies;
- The monitoring of the impact of aggravating bureaucratic practices on business climate and government administration arbitrariness cases;
- The improvement of tax legislation and related procedures;
- Other matters that have an impact on the economic development of the Republic of Albania.
- Government administration initiatives will mean all projects for changes/amendments of laws or by-laws, as well as projects for changes of policies that have an impact in areas determined in paragraph (1) herein.

Law no. 146/2014 speaks about the “Notification and Public Consultation”. Article 1 of this Law regulates the process of notification and public consultation of the draft laws, national and local strategic drafts, as

well as policies with high public interest. This law establishes rules of procedure to be followed to ensure transparency and public participation in policy and decision making processes of public bodies.

This Law aims to promote transparency, accountability and integrity of public authorities. As stated in the Article 3 this Law is applied to the rules and procedures of notification of the public consultation held by public bodies in policy and decision making processes.

Article 4 states that the provisions of this law are not applied during the decision-making process related to:

- a) national security issues, insofar as they constitute a state secret according to the law on classified information "state secret";
- b) international relations and bilateral and multilateral agreements;
- c) individual administrative acts and administrative acts of normative character, except when otherwise provided by special law;
- d) normative acts with the force of law, approved by the Council of Ministers;
- e) civil emergency;
- f) other exceptional cases provided by law.

The process of notification and public consultation carried out on the basis of the following principles:

- a) transparency in the notification process of public consultation with comprehensive and non-discriminatory participation;
- b) the effectiveness of the decision-making process of public bodies;
- c) the responsibility of public authorities to interested parties.

As it is affirmed in the Article 8 of the law interested parties in the process of notification and public consultation are public bodies; citizens of the Republic of Albania and interested groups; foreign persons with permanent residence in the Republic of Albania, as well as foreign legal entities, registered in the Republic of Albania.

Article 11 states that the notification of the project acts that will be subject to public consultation procedure is done through electronic registry. In cases where the public authority considers necessary, the notification may be done by e-mail; the public announcement, which appears in the premises of initial public body; a notice in the national, regional or local audiovisual media; the publication in local newspapers or on the two most read newspapers nationwide.

According to the Article 20 public bodies are required to prepare and publish annual reports on transparency in the decision making process, including information on:

- a) the number of acts adopted by the public body during the reference year;
- b) the total number of recommendations received from interest groups;
- c) the number of recommendations and comments accepted and rejected during the decision-making process;
- d) the number of public meetings organized.

Annual Report on transparency in decision making is published according to the forecasts made by the Article 11 of this Law.

## **POLICY FORMULATION**

PPD is an institutional arrangement that brings together a group of public and private sector actors. PPD discussion forums range from highly formal and structured to more informal and *ad hoc*, and initiatives may last from only a few hours or continue over several years (Bannock, 2005).

Objectives of PPD include building trust and bridging gaps to laying the foundation for a joint problem analysis and identification of policies and institutional reforms that contribute to a more conducive environment for private sector development.

Governments that engage in PPD are more likely to promote sensible, workable reforms, while enterprises participating in meaningful PPD processes are more likely to support these (Bannock, 2005; Herzberg and Wright, 2005). The policy process should not be limited to a small elite with privileged access to political and governance structures, but must build on structures and process that are deliberately set up to elicit citizen participation in policy formulation and implementation, and promote accountability of policy makers (Hertzberg and Wright, 2005).

According to the Article 10 of the law no. 119/2014 “On the right to information” in order to coordinate the work for guaranteeing the right to information, the public authority shall appoint one of the officials as the Right to Information Coordinator.

The Right to Information Coordinator enables any applicant to access public information under this law, by seeing the original document or by getting a copy of it; creates, maintains, updates and publishes a Register of Requests and Responses within the period provided for in point 1, Article 8 of this Law; coordinates the work to meet the information requests within the time and manner provided herein; records the information requested and assigns a serial number to each of them; sends an information request to a public authority within the time limits stipulated in this Law, when the public authority where the request was sent does not have the required information; verifies instances when information is given free of charge to the citizens, as provided for in point 5, Article 13 of this Law; sends initial notifications, under Articles 14 and 15 of this Law, and communicates with the applicant, as required on the subject of the public information request.

## INSTITUTIONS OF THE PPDS IN ALBANIA

### CHAMBER OF COMMERCE AND INDUSTRY

Chamber of Commerce and Industry are created subject of the public law, law no. **9640** dated **09.11.2006** and law no. **9897** dated **10.04.2008** **For Chamber of Commerce and Industries. These are on profit** institutions and the registration of business entities in the Chamber is voluntary.

Registration fees and service fees are imposed by the Representative Assembly of the Chamber.

The Chamber of Commerce registered in Albania are the following:

Union of Chambers of Commerce and Industry (UCCIAL)	Ines Muçostepa, Chairman	Rruga Dervish Hima, Rezidenca Ambasador 3, Kati 19, Ap.154, Tirana, Albania	04 22 47 105
			04 22 22 934
Union of Chambers of Commerce and Industry (UCCIAL)	Arben Shkodra, Deputy Chairman	Rruga Dervish Hima, Rezidenca Ambasador 3, Kati 19, Ap.154, Tirana, Albania	04 22 47 105

			04 22 22 934
DHTI Tirane	Nikolin Jaka, Chairman	Rruga e Kavajes, Nr.6. Tirane	45 800 932
DHTI Durres	Andrea Xhavara,  Chairman	Lagjja nr.11, Rruga "A.Goga" Ref: Pranë Rotondës Durrës, Kutia Postare nr.220	052 224440  052 222199
DHTI Shkodër	Anton Leka	Lagj.V. Shanto, Rr.Kinema Verore, I, Shkodra	Tel/Fax: 022 24 36 56
American Chamber of Commerce	Marc C. Crawford	Deshmoret e 4 Shkurtit, Sky Tower kati 11/3, Ap. 3, Tirane	04 259779
Embassy of Greece, Office for Economic and Commercial Affairs		Rr. Qemal Stafa Nr. 31, Tirana	04 2262 618
Turkish-Albanian Chamber (TATSO)		Rr. Ismail Qemali, Tiranë	04 2341 020
German Chamber of Commerce & Industry in Albania (DIHA)		Rruga Skenderbeg Pall. 4/7, Tirane	04 222 7146
Franco-Albanian Chamber of Industry (CCI France Albanie)		Bul. « Deshmoret e Kombit », Twin Tower, Tower I, kati 9, Tirana	Tel. + 355 4 4538103

## BUSINESS ASSOCIATIONS

Business associations – including chambers of commerce and trade associations – contribute to economic growth, development, peace, and prosperity. They play a key role in building inclusive entrepreneurship ecosystems and can bolster the ability of firms of all sizes to grow and create jobs. Through associations, the private sector can voice legitimate needs while engaging in a transparent policy reform process.

Voluntary, membership-based associations are microcosms of the democratic process, bringing entrepreneurs together to strengthen market economies. In order to be successful, they need strong internal governance, membership development, financial sustainability, and advocacy skills.

The Business Associations registered in Albania are the following:

Albanian Tourism Association (ATA)	Matilda Naço	Rr. Andon Zako Çajupi P.20/4, Kati i pare, Nr.4 Tirane	Rr. Komuna Parisit, P.1/3, Shk.I, Apt.5, Tirane
Business Albania	Luan Bregasi	Zyra Qendrore Rr. "Marko Boçari", pall.6, hyrja I, kati I, Tiranë	+355 4 22 26 280
Confederation "Konfindustria"	Gjergj Buxhuku	Qendra e Biznesit "Zayed Center", Kati III, Rruga Sulejman Delvina, Tirane	Tel: + 355 (4) 222 9486

Chamber of Facon Albania (CFA)	Gjergji Gjika	Rr: Ismail Qemali, Pallati 34/I, Ap.2/3, Tiranë	Rr. Sami Frashëri, Nr.15
Regional Business Development Agency	Ilir Rrembeci	Rr."Ismail Qemali", P.34/I, AP. 10, Tirane	2254603
Albanian Agribusiness Confederation	Agim Rrapaj, President Ymer Tola – Executive Director	Rr. Mine Peza, Pall. 87/3, Hyrja I, Kati I, Tirane	04229 445
FIAA- Foreign Investors Association Albania	Marinela Jazoj- Executive Director	Rr. "Themistokli Germenji", Pall. Pegasos, Kati II, Ap. 9, Tiranë	269282 2225553
Association of Italian entrepreneurs (AIIOA)	Maurizio Zannier - President, Alda Bakiri	Pallati I Kultures, sheshi Skenderbej, Tirane	+355 4 2234243
Albanian Constructors Association	Artan Dulaku, Chairman, Maksim Muci, Executive Director	Blvd."Zhan D'Ark", Kulla II, Tirane	269957
Institute of Authorized Accountant Experts	Djana Ylli (Golemi)	Adresa: Rr. Elbasanit, Pall. Edil-AL-IT, P.O. Box 1437, Tirane	2346077
Albanian Centre for Competitiveness and International Trade (ACIT)		RR."Deshmoret e 4 Shkurtit", Sky Tower 71/2, Tirane	Tel : +355 2 4271486/7

## GOVERNMENTAL PPD INITIATIVES

### NATIONAL ECONOMIC COUNCIL

The National Economic Council (NEC) is a process of consultation between the business community and the government. Article 3 of the Law no. 57/2014 affirms that the public consultation process in NEC is based on the principle of publication by making available to the stakeholders the proposed documents by the government, the principle of consultation through exchanging opinions, recommendations with the businesses.

The dialogue in NEC takes place through the exchange of thoughts, remarks, recommendations and proposals through the official internet website of this Council, periodic meetings of senior level representation and other meetings and forms of organization for the purpose of achieving the objectives.

The Article 5 of the law no. 57/2014 claims that the interest groups who are impacted by legislative initiatives of the government bodies may present/submit their remarks, comments, recommendations directly in the NEC official web site.



The deadline for the submission of remarks, comments and recommendations by interest groups is sixty (60) calendar days starting from the day after the publication of the draft act provided in article 4 of the law. As well, within sixty (60) calendar days starting from the day after the publication, government bodies commit to not give the draft bylaw prepared by them to any legal power.

The NEC Technical Secretariat will collect the remarks, comments and recommendations noted in this article, will process and will transmit them to the government body that has taken the initiative to prepare the act.

According to Article 6 in cases when interest groups propose changes to laws, bylaws and/or existing policies, or new bylaws and/or policies, their proposals should fulfill a number of criteria which are stated in the law.

Interest groups may denounce through the NEC official web site any excessive bureaucratic practice, arbitrary action, failure to comply with the law or abuse of the law and the government authority by the government administration against private entities.

Interest groups that have the right of acting in the NEC official website according to this article and article 5 of the law are considered only business organizations established, registered and which exercise their activity in accordance with the law.

The **National Economic Council (NEC)** functions according to Law no. 57/2014 dated 17 July 2014, "On the establishment and operation of the National Economic Council".

**As stated in the Article 7 of this law** NEC organizes periodic meetings convening on a monthly basis in the premises of the Prime Minister's Office of the Republic of Albania. The meetings are chaired by the Prime Minister who is the Chairman of NEC. The minister responsible for the economy is deputy chairman and carries out duties in accordance with this law and those delegated by the Chairman of the Council.

The participants on NEC are:

- The Prime Minister;
- The minister responsible for the economy;
- The minister responsible for finances;
- The governor of the Bank of Albania;
- Not more than six (6) world and local economy personalities;
- Not more than six (6) of the largest tax payers coming from large private businesses local or foreign represented by their legal representatives;
- Not more than four (4) business organizations, established, registered and which exercise their activity in accordance with the law represented by their legal representatives;
- General Secretary.
- representatives of international organizations, including but not limited to the International Monetary Fund – IMF, International Financial Corporation – IFC, World Bank – WB, European Bank for Reconstruction and Development – EBRD as well as Director of General Directorate of Taxation and Director of Customs General Directorate will participate in the meetings as permanent guests.

With the approval of the Chairman of NEC, the following persons are invited to participate on a case by case basis:

- The line minister or representatives of ministries and other central government institutions that cover the area whose problems are discussed in a given meeting;

- Academics (local and/or foreign) distinguished in the field of economics or other personalities;
- Representatives of other business organizations;
- Other subjects.

The way meetings are organized is determined in accordance with the rules on the means of organization and functioning, approved by NEC. The agenda of periodic meetings is prepared by the technical secretariat of NEC and is approved by the Deputy Chairman following consultation with Chairman of the Council. The NEC Technical Secretariat will let the participants in the meeting know at least seven (7) calendar days in advance, the time for the next meeting, the agenda, and will make available the materials related to the meeting.

NEC may organize other forms of consultation which may be appropriate on a case by case basis.

As defined in the article 9 of this law the Secretariat of the National Economic Council performs administrative and supporting functions. The Secretariat prepares meetings of the Economic Council and assists the Council in carrying out its duties. It also organizes and, in part, produces reports and analyses for use by the Council. It maintains contacts with authorities, institutions and organizations involved in economic issues.

The Secretariat is headed by the General Secretary who directs and supervises the work to monitor and mediate the dialogue between the state and the private sector, considers arbitrary practices or other concerns identified by the business community. Through the Secretariat the NEC may arrange meetings concerning concrete problematic and unsolved issues between stakeholders and various institutions of the government.

In addition, the Secretariat monitors economic policy developments and performs other duties assigned to it by the Chairperson of the National Economic Council.

## **INVESTMENT COUNCIL**

The mandate of the Investment Council (IC) is set out in the Decree of the Council of Ministers no. 294, dated 8 April 2015.

The main objective of the IC is to facilitate the dialogue between representatives of the business community, international organizations, donors and the Government for the development of a favorable, non-discriminatory and transparent business and investment climate in Albania.

IC has been established as an advisory body of the Government.

Its role is to facilitate a constructive dialogue and exchange of views between the Government and the private sector to facilitate dialogue in the area of investment climate and anticorruption.

# **ANALYSIS OF THE PPD INITIATIVE IN ALBANIA**

## **METHODOLOGY**

Our main research question is “How can the public-private dialogue in Albania develop in order to improve the business climate?”

PPD is a new trend in the development world. Nowadays, it is being promoted as a potential effective ‘medicine’ to overcome business constraints and create economic growth at various levels. Though its establishment, particularly, in a setting like Albania it raises a number of challenges that may undermine

the potential of this development strategy. Many western countries have adopted PPD strategies for service and public good delivery to increase efficiency and decrease government's burden.

The main objectives of our study are:

- 1) to explore how far the development of PPDs are proceeded in Albania and
- 2) to conduct an in-deep investigation on how to improve the situation by uncovering and discussing the principal challenges.

Our study is based on collection of primary research data gained during 3 months of field research in Albania.

When conducting field research, the problem of personal opinions and subjectivity is often encountered. We attempted to increase the objectivity of our findings by a relatively high number of interviews (in total 14 from various sectors) as well as comparing the interview outcomes with secondary data.

In this research, the qualitative methods used were mainly in semi structured depth interviews, conducted individually and within a basis of interaction between the researcher and the interviewee.

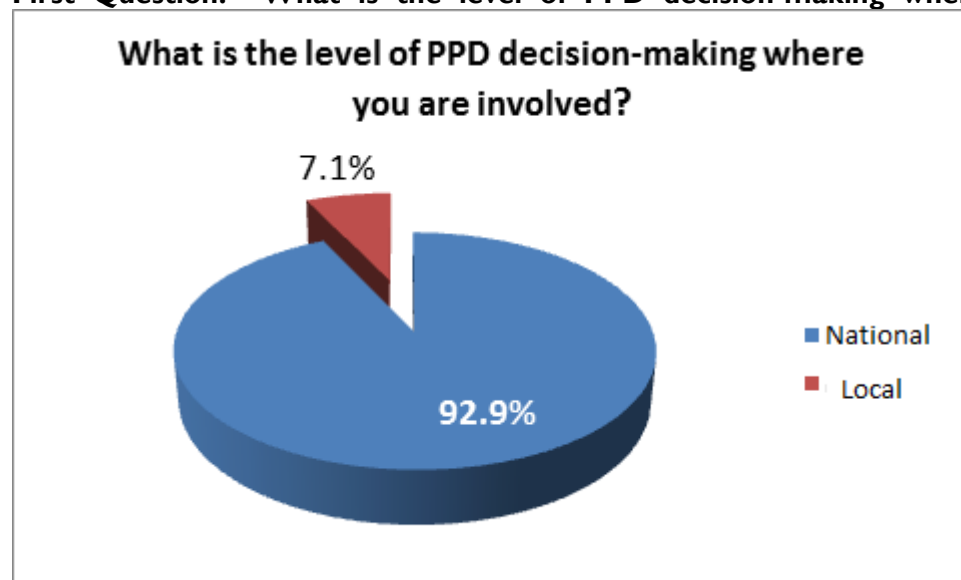
Annex I provides a list of all the interviews conducted and the interview's questions.

Particularly in regards to the interviews conducted, the interviewees were selected due to their relevance to the research topic and their relevant input to the PPD implementation in Albania. Thus we attempted to include high-ranking officials from the public and the private sector. Having such a broad approach should guarantee the inclusion of all aspects of the issue and avoid a biased opinion from one sector only.

To evaluate the quality of the development of Public Private Dialogue in Albania have been conducted semi-structured interviews with the leading executives of the main institutions that are involved in this process.

The objects of the interviews were institutions involved in public private dialogue with focus on promoting business and in improving the climate of doing business. By relevance these institutions are: five chambers of commerce, business associations and five PPD initiatives led by local or central government.

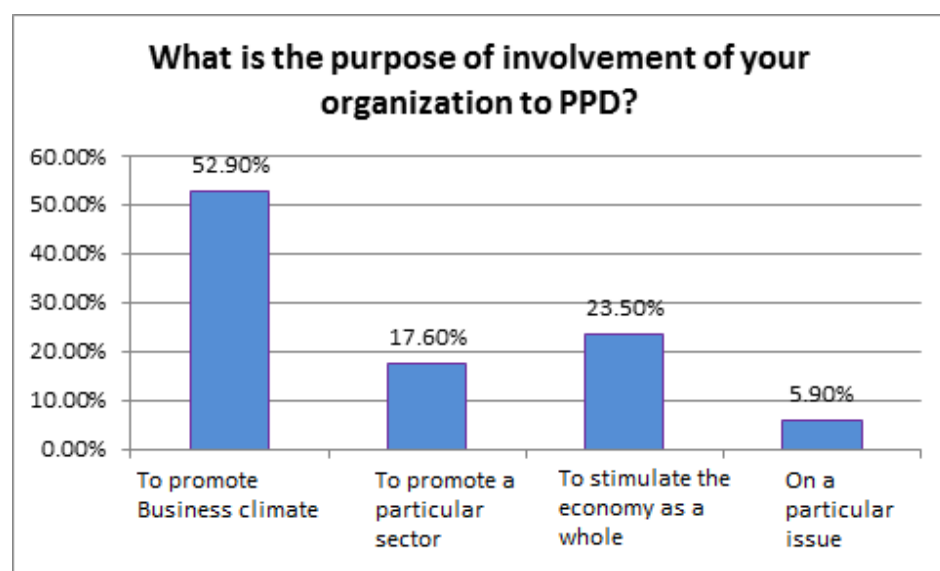
**First Question: What is the level of PPD decision-making where you are involved?**



Regarding the space where these initiatives operate 92.9 percent of them are focused on the national level so they develop this dialogue with central government institutions.

Only one of these PPDs is located in dialogue with local government and specifically with the Municipality of Tirana. Economic Council of the Municipality of Tirana is a group consisting of 63 members, created by a special decision of the Municipal Council of the Municipality of Tirana and acting as an advisory body to the Mayor of the Municipality. The purpose of this initiative is to increase the interest of the Municipality of Tirana towards the local business of the capital city. Economic Council of the Municipality of Tirana aims to advocate as much on behalf of local business for solutions to problems mostly oriented from the market.

**Second Question: What is the purpose of involvement of your organization to PPD?**



From the responses is noted that the majority of PPD aim of fostering business by improving the climate of doing business. 52.9 percent of them endeavor to approach public and private partners in order to identify the problems that limit business initiatives, to boost competitiveness in the sectors in which they operate and to propose amendments to the relevant legislation.

A group of PPD initiatives aim macroeconomic stability as well as a very important prerequisite to improve the climate for doing business in Albania.

It is very positive the observed fact that some of the initiatives of the PPD are interested in the promotion of particular sectors. This should be the aim of many business associations in order to support and draw the attention of the government towards the improvement of business conditions for a particular industry or a cluster, which creates added value.

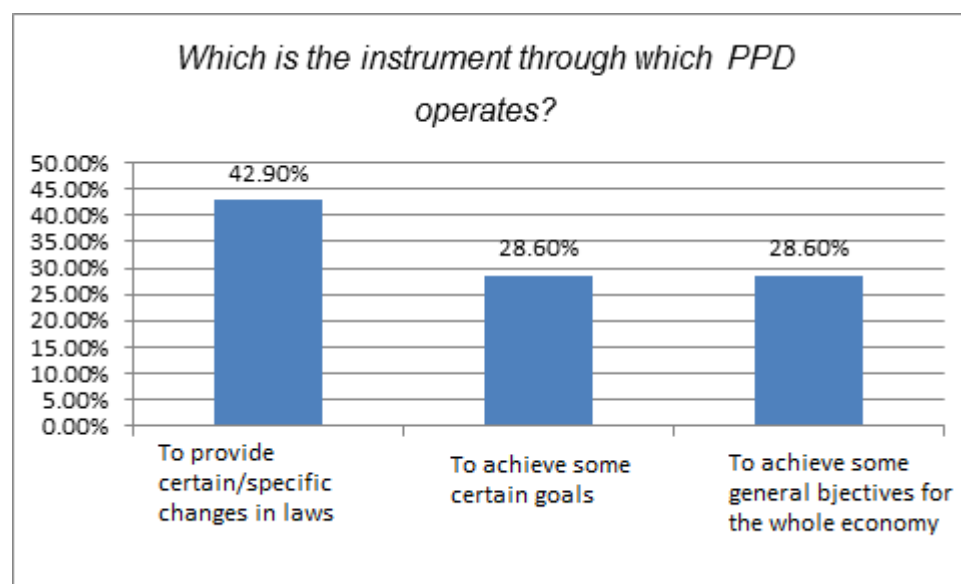
PPDs that run in a specific sector are more focused on economic outputs, create more cooperation and more opportunities for changes.

Strategies oriented to sectorial basis are a form of industrial policy which in Albania or have been missing or have not performed well. This situation has allowed the distribution and the worst allocation of resources in industrial non-profit sectors by not allowing industry to be determined as a sector that leads innovation in Albania.

Even more interesting is a profound question that requires understanding that within the goals that have initiatives, which are instruments that they see as priorities in arriving at their objectives.

PPD is used to determine the priorities of economic policy, to improve the legal system and to involve all the feedback of the dialog in PPD regulator system.

It seems that the primary problem that business has in Albania is the quality of the legal system. Therefore, 42.9 percent of the PPD initiatives require necessary amendments to specific laws as the fundamental instrument that ensures the quality of the business climate. So businesses want stability of fiscal legislation, a clear property law, a legislation that promotes the use of technology and innovation, high degree of implementation of laws and reduction of the institutional bureaucracy.



28.6 percent of their responses require that dialogue should aim general objectives of economic development. This goal stems from the fact that macroeconomic stability is a necessary precondition of the climate of doing business. So business requires achieving to affect through dialogue the strategic approach of the government as it is to increase the capacity of civil servants, increasing the professionalism of public administration institutions and improving coordination among ministries.

Albania is certainly a country with moderate level of Freedom Investment Index which is similar to other countries in the region. But what the Albanian business needs and for which it seeks dialogue with the government is also changing the structure of the economy. Albanian economy is oriented to intensive working products or products for primary industries (90 per cent of our experts are the product of intensive work or extractive industries). These products which are considered as low-skills embody in their value a low level of innovation and as a consequence a less added value and less profitably.

**Third Question: Which is the sector that has leadership in PPD, into which is involved your organization?**



As it results from the questionnaires, 57.1 percent of initiatives for dialogue in Albania are initiatives taken by private business. This sector in dialogue adopts advocacy approach. Their goal is to build a national agenda for business, to identify their priorities in the formulation and implementation of reforms in the country and to mobilize members of their community. Albania has 11 business associations and 10 chambers of commerce which have already accommodated their institutions as key stakeholders in decision-making of economic policy, especially those related to quality of business climate.

The results of this dialogue focus on the issues of tax collection, inspection forms of business by the government or administrative issues related to customs. Some of the results were the elimination of the ad hoc inspections of business by central or local tax administration, reduction of the inspection period from 2 months to 5 days. Likewise, the government has honored the one stop shop system for collecting the tax statements and tax services.

From questionnaires it resulted that in Albania 42.9 percent of the initiatives are directed by the government (only one of them is headed by the mayor of Tirana). Dialogue directed by the government appears in the form of defined periodic consultations. This whole process serves to the government to keep open channels of information and expression of interest from the business.

To reinforce this specific particularity in Albania we can mention NEC (National Economic Council) and the Board of Investment which are two important initiatives of PPD led by government.

**The National Economic Council (NEC)** is newly created as a PPD initiative driven by the Prime Minister's office to promote consultation between the business community and the government.

The NEC functions according to Law no. 57/2014, dated 17 July 2014, "On the establishment and operation of the National Economic Council." Article 1 of Law No. 57/2014 "For the establishment and operation of the National Economic Council", affirms that The National Economic Council (NEC) is created to guarantee institutional cooperation and public-private partnership, ensuring dialogue and consultation between the government and the private sector to guarantee the rule of law, transparency of public decision making and the representation of each and every individual in this process.

The National Economic Council is a process of consultation between the business community and the government (with comments, observations and suggestions coming from the business community to the government). The consultation process takes place through the exchange of comments, suggestions or proposals through the official website of the NEC, the high representation on periodic meetings and other

forms of organization (upon request the NEC has the right to set up temporary sub-committees for specific issues). The period of consultation of draft proposals or new policies between the government and the stakeholders is 60 (sixty) days from the day following the publication of the draft.

NEC has also an advisory function to the Government with recommendations for economic policy decisions and practices. The principal function of the Council applies to recommendations and practices to improve the legal and institutional framework which would impact the economy as well as projects for influential policy change in areas of investment, trade, taxation and fiscal packages, business climate, arbitrariness and bureaucratic practices etc.

**Investment Council**, which was launched by the Minister of Economy, Tourism, Trade and Entrepreneurship on April 15, 2015 - is a platform for dialogue between private sector and government, supported by international financial institutions.

The scope of work of the Investment Council is to facilitate a constructive dialogue between the government and the private sector and the formulation of recommendations to improve the investment climate in Albania. The recommendations will serve as a basis for decision making by the Prime Minister in the investment climate.

The work of the Investment Council is supported by a Secretariat, with the recruited experts by the EBRD and supported with funding from the Italian government. The Secretariat will play the role of a coordinating unit for the Investment Council activity, by communicating regularly with representatives of business and the international community in order to understand the challenges faced by the private sector in Albania.

Legal, financial and economic experts of the secretariat will prepare analyzes and evaluations based on issues raised by the business and will present concrete recommendations to the Investment Council members. The aim is to consider the voice of business in the process of economic reforms in the country. The Secretariat will maintain direct relations with business, business associations or donors and commercial attaches of foreign embassies. The identified problems, their analysis with a solution perspective and recommendations will serve as a basis for drafting the agenda and organization of meetings of the Council.

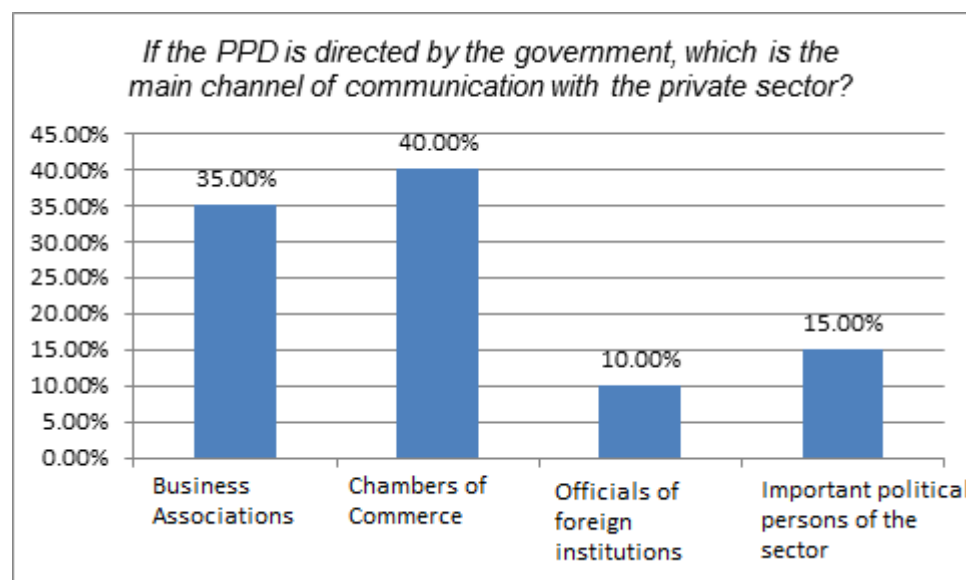
The Investment Council meets periodically, every three months, with a predetermined agenda. The preparation of an agenda as a result of identifying problems through a more inclusive process, meaning not imposed from above; constitutes the beginning of the work of the Secretariat. With the adoption of the agenda, the Secretariat experts will work on a thorough analysis of problems as the business perspective, but also that of the state.

Recommendations will be presented to the Investment Council for discussion and consensus within a period of 10 days in advance (in accordance with DCM) and internal regulations of the Council. Upon approval by the Investment Council, the suggestions will be sent to the Prime Minister for a further decision. The Secretariat will publish and follow all the steps up to the decision or silent disapproval of the problem.

However, from the deep analysis of the questionnaire, it is seen the directed dialogue that the government uses as a main form of communication with businesses. (Business Associations and Chambers of Commerce) These two PPD groups make up 75 percent of advisory institutions used by the government in the process of consultation for the improvement of the business climate.

The government through the dialogue with the businesses has the possibility to hear suggestions of the private sector and have the opportunity to draft credible reforms and provide support in the process of implementing reforms.

It is very important that the information sources on which the dialogue is arranged to cover as many business sectors and issues, in order to produce economic policy based on reality.



From the results of the questionnaire it seems that Business Associations and Chambers of Commerce have managed to be confirmed as structured and transparent initiatives of involvement of the private sector which are very important in the policymaking process through dialogue.

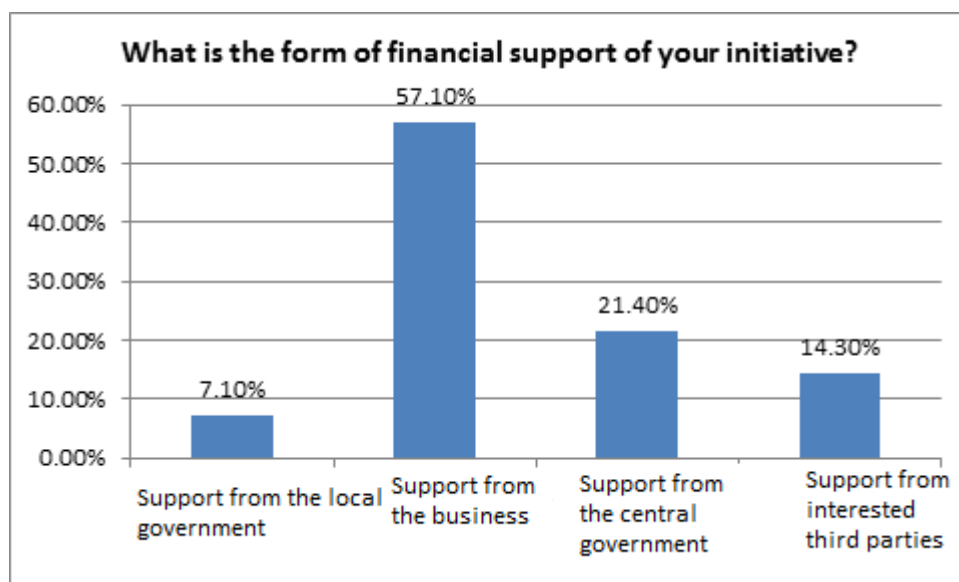
Discussion between public and private sector helps in establishing trust and understanding between them and legitimizing the results.

#### **Fourth question: What is the form of financial support of your initiative?**

This question deals with the level of transparency in financing PPD initiatives. The transparency in financing increases the cooperation in the dialogue process and the quality of the level of participation of stakeholders and the results of the dialogue. Most of PPD initiatives in Albania as expected are based on business. PPD dialogue in Albania aims firstly the improvement of the business climate and the form of their financing reflects this interest.

The innovation in the funding format is that because of the mutual benefits that all economic actors in the country have from the dialogue, in this process are added also the funds from the government and from donors such as the IBRD.





The financing of several PPD initiatives by the government shows that the government has understood that the dialogue can be realized by many objectives of business field.

A transparent and multilateral dialogue mediated by trustworthy partners can help the government to invest in qualitative reforms, build policies based on evidence from economic reality and build communication channels with business and receive feedback constantly.

Analysis of funding sources is necessary to understand the sustainability of PPD initiatives. The financing of business PPD with their own resources to the extent of its 57.8 percent shows a good degree of their financial constancy.

In these conditions, these initiatives have the opportunity to invest in creation of qualitative dialogue capacity, in better planning of issues, areas and dialogue, and the creation of sustainable relationships in dialogue with stakeholders.

The involved institutions in the PPD as those that are funded by the public and those financed by the business have a responsibility to lead the dialogue process forward. This is an objective that reinforces the need for finding ongoing funding sources to these institutions.

We should ensure that each sector should have core leadership groups to mobilize and coordinate the commitment of the parties to the dialogue. These institutions when they appear as private business initiatives in the dialogue must show that they have the independence and credibility to demonstrate broad support of the business community. Whereas initiatives funded by the government must prove the political commitment in advancing the objectives of the dialogue.

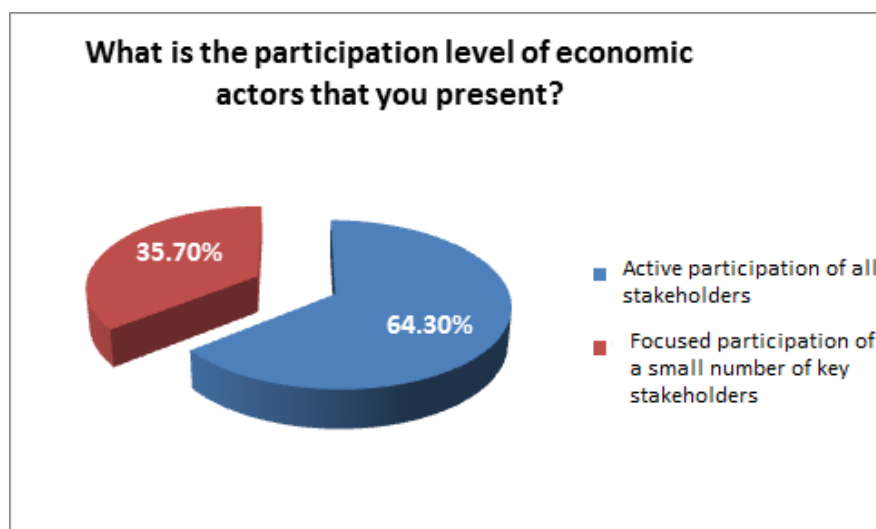
#### **Fifth question: What is the participation level of economic actors that you present?**

In order that a PPD to be effective and representative it should have in its composition groups that represent a variety of interests. A PPD must try to be comprehensive in the types of economic activities of the representing group and the sizes of business that has in focus.

In this regard business associations and chambers of commerce are instruments that seek to aggregate interest of all members and to facilitate the collective shares of their interest.

PPD in Albania has taken into consideration this particular role they have to play so many of them 64.30 percent base their activity on active participation from all the members. These initiatives which are all

financed by the business are more oriented towards promoting dialogue which aims to find market oriented solutions to raise economic efficiency of the covering sector then applying for economic benefits for their organization.



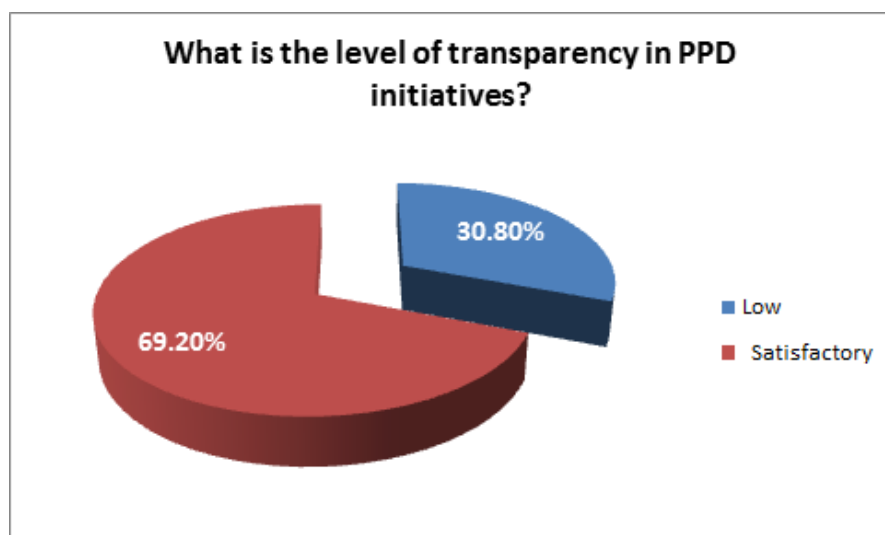
As it is seen PPD funded by the government are more focused on the general objectives and national interests.

This feature also appears in the profile of the economic actors that are part in these initiatives. They are key institutions in economic decision-making with a national spectrum of their action. Their engagement in the dialogue is structured on the basis of national objectives with well-defined agenda of discussions and with a frequency of predicted meetings.

#### **Sixth question: What is the level of transparency in PPD initiatives?**

According to the Charter of Good Practice in using PPD for Private Sector Developments and Inclusive Growth, the second principle is that the process of the dialogue is an open Governance Process.

This principle requires that the PPD should operate under fair, open and transparent procedures. These initiatives must not be vulnerable to political pressure or economic favors.



The level of transparency in PPD in Albania is satisfactory. Nearly 2/3 of them (69.2 percent) agree that their level of activity is characterized by a satisfactory level of transparency. Most of the institutions involved in the PPD initiative have website and enough information about the scope of their mission and vision. In many cases, PPD actively participate in the public debate on issues where they are involved by expanding the interested business district.

PPD are also active on social networks (social media) by sharply raising the level of transparency by making many comments and feedback from a wider audience. Expansion of means of communication has led to most of the PPD to ensure a greater participation of stakeholders not only in implementing their goals but also in monitoring the implications of their stage of drafting laws and their implementation.

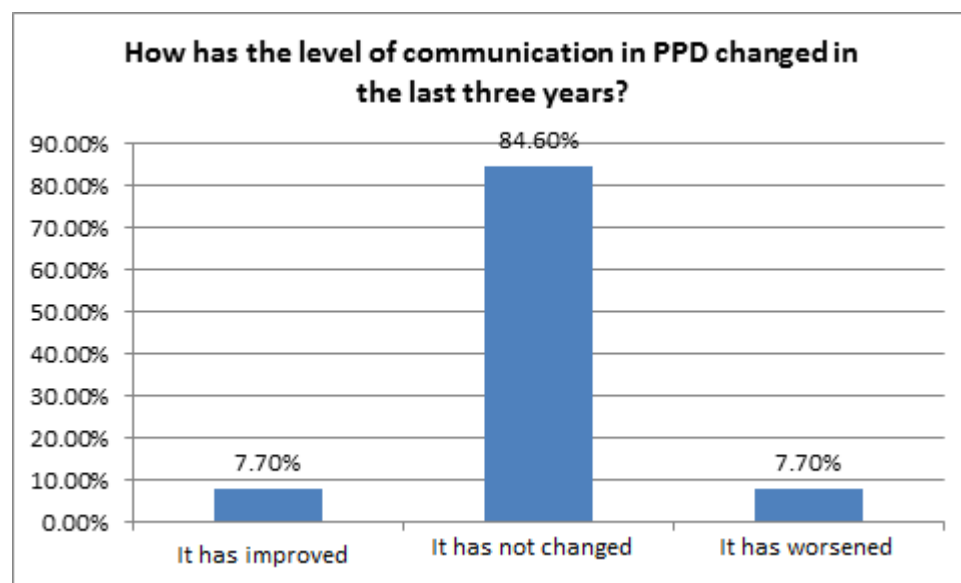
### **Seventh question: How has the level of communication in PPD changed in the last three years?**

A clear communication strategy is very important for a PPD. Communication is an essential tool to build trust among participants in the PPD, to keep them involved and motivated on their mission.

PPD should be more transparent in communication, there is a need to share information constantly in real-time with the stakeholders.

Reviews of respondents indicated that the PPD communication strategies have not changed much. Most of them say that 84.6 percent has not changed anything in the forms of communication that were mostly meetings with interested parties and conferences with stakeholders.

But in fact PPDs directed by government, which in fact represent a relatively new group of dialogue initiatives created only last 2-3 years, have conducted intensive communication strategy. They were more open to the media and this way has helped to increase the ratings and comments on them.



Most of the interviewees said that there must be found new forms of communication that have to focus on increasing participation of interested parties in dialogue. Forms of communication must be processed to promote a specific set of objectives and a very clear purpose.

## **AN OVERVIEW OF THE REGULATORY**

# REFORM IN ALBANIA

The first attempt of Albanian government to deal with the Regulatory Reform was in early 2003. For the first time the FIAS (The multi – donors' investment climate advisory services. Financed by World Bank) published a study on "Removing Administrative Barriers to Investment: A critical component of the national development strategy".

The results of the above mentioned study was the recommendation to the Albanian Government to be focused on the removal of stock of barriers. The Government actions in this regard were very fragmented, short term oriented and not sustainable and leading to the creation of new obstacles impeding business development.

Aware of the importance of ownership in reforming the regulatory framework affecting business development, the Government of Albania led a process of self-assessment in early 2005, again with the support of FIAS. This time was prepared a comprehensive report that served as the basis for the regulatory reform for the improvement of the business environment, initiated by the Albanian Government in October 2005.

The Government has recognized the need to remove administrative barriers and improve the quality of regulations affecting businesses. Furthermore, it has recognized that a more institutionalized approach to regulatory reforms, together with stronger capacities, is crucial for the sustainability of any reform efforts. This reform is focused on ensuring a more transparent, sustainable and predictable regulatory framework based on a systematic monitoring approach.

In this regard, following the recommendations from the administrative barriers studies, the Government has taken a range of steps towards establishing a better institutional infrastructure to support regulatory reform. In accordance with this action, Regulatory Reform Task Force, headed by the Prime Minister, was established by the Decision of the Prime Minister (number 170, 31 October 2005). Regulatory Reform Task Force was the principal structure responsible for the formulation and monitoring of the implementation of regulatory reform plans.

The mission and the functions of the Task Force, defined on this decision, were:

- to define the priorities of the Government, under the frame of the regulatory reform, in order to improve the business environment;
- to approve the primary action plans to eliminate administrative barriers;
- to monitor the technical groups, in order to finalize the respective action plans;
- to supervise the implementation of the regulatory reform and assess the impact of implemented policies.

The Task Force established seven technical working groups (business registration, licensing, customs, taxes, property and construction, inspection, and administrative appealing). The Task Force developed a Regulatory Reform Action Plan, endorsed by the Council of Ministers in March 2006, to guide implementation of reform actions in the following three years.

This Action-Plan established a comprehensive and dynamic program for regulatory reform in Albania. It not only addressed urgent needs regarding harmonization and simplification of the regulatory reform in important sectors, but also initiated the framework for the establishment of institutions and procedures that will guarantee a friendly, transparent and efficient business environment.

This Action - Plan incorporated new initiatives for the compilation and application of qualitative regulatory principles and good governance in Albania, and simultaneously aimed to guarantee the establishment of a

mechanism that the new regulatory framework would have to respect in order to be in compliance with such principles.

# RIA AS PART OF THE REGULATORY REFORM

## FIRST ATTEMPTS OF RIA IN ALBANIA

The Regulation Impact Assessment (RIA) is an instrument permitting to assess and determine the consequences of the interest groups of the society from the introduction of a new law or regulation. It is clear that RIA is used whenever a new law adopted involves state intervention and is carried out before the draft law is written. It is not only an assessment of the proposed law or regulation.

RIA is applied any time if the non-legislative measures are the best solutions to a particular social or economic problem. So RIA becomes an important factor in designing a good quality legislative system in order to provide valid arguments for supporting the planned regulations.

In particular RIA might help the society to avoid non efficient laws and reduce the pressure of the bureaucracy to the businesses.

Regulatory Impact Analysis (RIA) is becoming widely used as a method of improving the quality of regulatory environment not only in OECD countries, but in a number of other countries as well. It is a tool by which the policy makers can assess in advance the impact of the proposed laws in terms of the potential costs, benefits and risks.

Regulatory Impact Analysis (RIA) helps to:

- properly define the problems which would be overcome by adopting the regulation;
- perceive the effect of the proposed regulation;
- identify alternative options for achieving the desired aim;
- assess potential regulatory and deregulatory options;
- improve transparency through consultation and a debate of all interested parties;
- determine whether the benefits justify the costs;
- determine whether particular sectors are disproportionately affected;
- ensure that implementation issues are taken into consideration early in the process.

The OECD Reference Checklist for Regulatory Decision-Making contains the principles on regulatory decisions that can be applied at all levels of decision- and policy-making for improving effectiveness and efficiency of government regulation.

It indicates that the creation and implementation of better regulation can be achieved by:

- upgrading the legal and factual basis for regulations,
- clarifying options and assisting officials in reaching better decisions,
- establishing more orderly and predictable decision processes,
- identifying existing regulations that are outdated or unnecessary,
- making government actions more transparent.

The Checklist, however, cannot stand alone, but must be applied within a broader regulatory system, including adequate analysis, consultation processes and systematic evaluation of existing regulations.

The first proposed RIA system for Albania was based on the principle of implementing a '*customized, simple and operational RIA system*' that is workable in the current environment and which has the capacity to evolve over time. Albania has an *Explanatory Memorandum* as an important part of the law drafting process (Law no. 9000, 30<sup>th</sup> January 2003).

According to the Council of Ministers Decision no.584, 28<sup>th</sup> August 2003, the Explanatory Memorandum should be produced for all regulations and covers the following:

- The aims and objectives of the draft legal act
- Explanation of how the draft law is related to the country's development strategy and policy objectives;
- Assessment of possible benefits, economic costs and level of effectiveness;
- Problems of enforcement;
- Conformity with existing laws and harmonization with EU legislation;
- Details of persons and institutions consulted and contributing to the drafting process;
- Specification of institutions and/or bodies responsible for enforcing the legal act.

In addition to the Explanatory Memorandum, the draft law should be accompanied by a *Budgetary Assessment* to include:

- Total amount of annual expenses for implementation of the act;
- Analysis of budgetary expenses for first three years of implementation;
- Where public funds are used, an indication of budgetary allocation.

The existing procedures require every Ministry to submit the draft law (together with the Explanatory Memorandum and Budgetary Assessment) for comment to the Ministry of Justice, the Ministry of Finance and the Ministry of Integration.

The draft should also be sent to the Ministry of Economy, Trade and Energy if there is a significant economic content. The draft should also be sent for comment to other Ministries where the draft law is judged to relate to a particular Ministry's area of responsibility.

The draft law should be revised in the response to the comments received from Ministries and is submitted by the proposing Ministry to the General Secretary of the Council of Ministers (legislative and coordination department). The General Secretary of the Council of Ministers may refer the draft back to the proposing Ministry; before passing it forward to the Inter-Ministerial Committee.

The Explanatory Memorandum and the related Budgetary Assessment was expected to represent an embryonic Regulatory Impact Assessment.

METE, the Council of Ministers and other governmental Institutions were convinced that this process offers great *potential for evolving into a RIA system*. However, this would require modification as well as capacity building in order for it to work effectively, leading ultimately to the creation of more effective policies and legislation.

## **IMPLEMENTING RIA IN THE LEGISLATIVE PROCESS IN ALBANIA**

In the effort to improve the quality of the regulatory environment, policy makers in OECD countries are increasingly using the Regulatory Impact Analysis (RIA).

This methodology for assessing the impact of the proposed laws on potential costs, benefits and risks of the proposed legislation is now being deployed in a number of non-OECD countries, including the transition countries.

## **GOOD PRACTICES IN THE DESIGN AND IMPLEMENTATION OF RIA SYSTEMS**

The following key elements are based on good practices identified in OECD countries:

- Maximize political commitment to RIA;
- Carefully allocate responsibilities for RIA program elements;
- Train the regulators;
- Use a consistent but flexible analytical method;
- Develop and implement data collection strategies;
- Target RIA efforts;
- Integrate RIA with the policymaking process, starting as early as possible;
- Communicate the results;
- Involve the public extensively;
- Apply RIA to existing as well as new regulation.

*Source: OECD (1997), Regulatory Impact Analysis: Best Practice in OECD Countries, Paris.*

These elements of the analysis were included in the Rules of Council of Ministers, the Rules of procedure of the Assembly of Albania, the Law on organization and functioning of the Council of Ministers and the Decision of the Prime Minister for licensing principles, No. 274.

According to these rules it is necessary to prepare before any change: - fiscal impact assessment, and - social and economic impacts expected assessment.

Even though, in the first self-assessment prepared in the early 2005 from the Government of Albania there were some segments containing some elements of the Regulatory Impact Analysis.

The first serious attempt to introduce RIA as an integral part of the Albanian regulatory reform framework was made in the Government Regulatory Reform Action Plan from March 2006 and in the World Bank BERIS (Business Environment Reform & Institutional Strengthening Project) signed in November 2006.

In the BERIS project framework within the World Bank (RIA component) was performed detailed analyzes on ways to introduce the RIA system in Albania.

According to the Action Plan from 2006 and the BERIS project, the responsibility for the preparation of the RIA for new regulations and policies should lie with the relevant ministries and BERIS project plans to support a network of legal and economic officials in selected line-ministries.

Moreover, the quality control, monitoring and evaluation of the pace and quality of regulatory reform, including the implementation of the RIA system, should be carried out by the Trade Policy Department (TPD) within the Ministry of Economy.

Although the Action Plan on regulatory reform from June 2007 was also included a detailed program of the establishment of the system of assessment for the RIA reform, based on the Action Plan 2006 and the BERIS project. But delays in the procurement process postponed the realization of this segment of the Action plan.

## **PROGRESS OF RIA IN ALBANIA AND CHALLENGES**

The overall objective of the BERIS was to assist the Government in: (i) facilitating business entry and operations in the formal economy; and (ii) strengthening the enterprise sector's capability to increase exports towards regional and EU markets.

The strategy for RIA (2010) as part of BERIS project has considered the following issues:

- the Government's priorities (including legislative program and EU integration),
- potential problems that may be encountered during the implementation of the RIA system (including institutional capacity, human resources and financial resources),
- the level of potential effectiveness of RIA (based on the experience of the neighboring countries of the Western Balkans),
- the potential effects, impact and efficiency in economic transition and best international practices.

One of the main targets of BERIS included as sub component of the projects was also **Improving quality of regulations affecting business entry and operations** (the cost of the project was estimated Euro 1.42 million).

This sub-component, which had been designed to assist in strengthening the institutional framework and capacities, was focused to improve in a systematic manner the quality of regulations affecting business activity. The target was proposed to be realized by:

- a) Building regulatory capacities and a regulatory management system in line-ministry and at the central level;
- b) Developing the capacity to improve the quality of new regulations, through the RIA, public consultation and complementary methods;
- c) Upgrading the quality of existing regulations partially via targeted reviews of regulation in selected areas/industries, and partially via improving the access to business-related laws and regulations in Albania;
- d) Developing and implementing a monitoring and evaluation (M&E) system for regulatory reforms.
- e) Undertaking small business surveys and two ARCSs to assess outcomes of the component.

The project helped to implement the RIA program in a systematic manner, applied it to selected legislation (3 pilots), and developed the capacity of METE and a group of government officials for improving the quality of regulations.

This was achieved first by a series of reports on RIA and second through awareness-raising and training activities and seeking feedback from key stakeholders.

The main impacts of the implemented RIA system include: (i) enhanced skills of government officials in drafting new laws and regulations; (ii) benefits to private entrepreneurs in terms of more appropriate laws; and (iii) greater public awareness of new and existing laws through the Electronic Business Legislation Registry.

In the last quarter of 2011 to increase the human capacities on RIA implementation, were held two workshops with the participation of 95 directors and heads of legal and policy departments from all line ministries, leaders of independent institutions and business people. In the training process of the human capacity building were included also strong decision making persons as 20 deputy ministers and general secretaries of line ministries.

In RIA pilot projects the officials included in the training process drafted of three Albanian laws: "The Veterinary Service in Albania", "Law on Environmental Protection"; and the Inspection Law.



In addition, the Government has successfully introduced some key principles relating to the quality of regulations through a process of regulatory reform. Of these the most important were introduction of the periodic public consultation, accountability of the state administration, consistency of new legislation, and transparency.

In this regard, the RIA has been a very useful tool that has helped Albania policy makers and officials to improve the understanding of economic and social impacts of regulation, assess trade-offs between alternative regulations, and identify the most suitable ones.

Despite the positive results achieved, the process of the full guideline of RIA implementation for the Albanian Government has been very challenging. Also experts from BERIS projects have found that Albania was not ready to adopt a comprehensive RIA system in accordance with a new law and with the establishment of new institutions.

However, particular segments of this analysis are carried out as an integral part of the explanatory statement accompanying the draft law. Regulatory Impact Analysis (RIA) even with some positive results has not been officially introduced into the Albanian legislative system.

In these conditions, it was concluded that it would be more effective to adopt RIA system divided into several stages until achieving the conditions for the completion of the system. This system was called RIA Light.

Even though all the technical aspects and the drafting of the decree on RIA Light were completed on time and without any major issue, the adoption of this legal piece was pending by the Decision of the Government until May 2011. The issue was related to the authority which would be responsible for RIA, METE (Ministry of Economy Trade and Energy or the Prime Minister office).

Finally, it was decided that the main Authority responsible for RIA Light is the actual MZHTTE, Ministry of Economy Trade and Entrepreneurship (former METE).

This change was not included in the project targets, but failure to adopt properly this crucial piece of legislation undermines the sustainability of the results.

The Decree (2011) that institutionalized the **RIA** Light was introduced under the BERIS project and the endorsement of subsequent actions, as well as lead to improvement in the drafting of legal and sub-legal acts and to a new format for the explanatory memorandum accompanying proposed legislation.

## **RECENT DEVELOPMENT IN ALBANIA, EFFORTS OF IMPLEMENTATION OF THE RIA LIGHT**

Under the BERIS project was hired a Consultant of the company "Pohl Consulting & Associates" (2010), to assist the process of implementation of the RIA system. In this framework it was prepared a new RIA procedure, a RIA Guideline to be completed and the proposal for the adoption of a special law for RIA which includes the creation of a central coordination unit of RIA.

But the final Report on BERIS (April 2014) concluded that Albania was not ready for adoption of a real RIA system based on new Law and new Institutions. So it was proposed to the Albanian Government the adoption of a simpler method so called RIA Light which will be completed in some stages. The main stages in which the process will pass are:

**First:** The change of the rules of Prime Minister's Office, in order to present opportunities to develop RIA within the existing institutional and legal framework, and within the existing procedures in Albania (RIA Light).

**Second:** Evaluation of the new model of the explanatory report according to RIA model (within two years), in order to determine the mass of the system efficiency. Creating the conditions for the implementation of a comprehensive system of RIA (preferably for a period of 2-3 years) depending on the conclusions of the above assessment.

**Third:** Implementation of a real RIA system (best in a period 2-3 years). According to the Consultant of the company "Pohl Consulting & Associates" the full RIA system will require the approval of a special law for RIA and the creation of an independent central coordination office and RIA offices in all other Ministries.

During the process of checking and evaluation approach, it was noted that it is necessary to strengthen the role of the Ministry of Integration. Also, it was necessary to intervene to regulate certain aspects of the process of preparing the project acts, as well as for coordinating opinions of line ministries and other concerned institutions.

Implementation of the introduced changes is expected to have no problems. Rather, they aim to create a more effective and easily applicable system for the preparation of the draft. These changes do not affect the practices followed in the preparation of the draft and do not require additional costs to implement.

This obligation is addressed to the Albanian Government Strategic Documents such as National Strategy for Development and Integration and other progress monitoring of European Integration plans, such as the National Plan for the Implementation of the Stabilization and Association Agreement. These changes will bring improvement in the process of preparing the draft and most importantly that of the approximation of legislation with the acquis in the EU.

In these conditions it has been compulsory the implementation of some changes in the Government Decree nr. 584 date 28.08.2003 on "Regulation of the Council of Ministers".

The main changes in the context of improving the process of approximation of legislation with the acquis in the EU are focused on:

***The link of the analytical program of the project acts with the National Plan for the Implementation (NPI) of the Stabilization and Association Agreement (SAA)***

This is done through the amendment of the letter "c" of point 8 enabling the link of the analytical program of the projects act with NPI - SAA. This is done by identifying the analytical program of the project acts anticipated as legislative initiatives in the NPI.

***Review and extension of the deadlines that must be given to the line ministries and other institutions to comment on the draft. This is done by changing the point 28.***

- a) Point 28 has extended the deadline given to line ministries or other interested institutions in commenting on the draft from 7 to 10 working days. In this way the 10-day deadline sets a standard term for all ministries and not only for the Ministry of Justice. However, to this point was added a paragraph, which allows more flexibility. This paragraph allows the proposing ministry, in exceptional cases and given the complexity of the draft, to determine other terms, but never less than 3 working days and never more than 21 working days. This exclusion has its own limitation. Before it is fixed another special term, the proposing minister should receive confirmation of the General Secretary of the Council of Ministers. This limit is determined to prevent any case of abuse in the short term by any proposing ministry.

- b) Point 28 brings another innovation: the electronic communication via official e-mail between ministries, in the process of receiving and giving feedback on a project act. This innovation, which is in line with government policies on e-government, aims to accelerate the process of consultations, saving not only time but also financial means.

### ***Assessment of preliminary compliance with the right and European policy***

Point 12 has changed, because it was added a point, which requires a technical structure, in coordination with the unit of integration. Before you begin preparing the project act, make a preliminary assessment to see the compatibility of the project act with the *acquis* and the European Union policies.

### ***Strengthening the role of Ministry of Integration***

For this purpose, were changed the points 25, 30 and 45, and was added point 25/I. The changes in their entirety aim that Ministry of Integration should:

- a) exercise control not only over acts of normative character, but also on the acts that each minister in exercise has on his competences, such as orders, when with them is aimed the approximation of an act with the *acquis* of the EU;
- b) have the right to "veto" in order to prevent the review of the project act by the Council of Ministers that aim an approximation, but who have not previously received his approval,
- c) review any project act, elaborated as a result of the thoughts of other ministers, once again before it is sent for consideration by the Council of Ministers.

### ***Identify all the acts of the EU approximate *acquis****

In point 21/I is added a paragraph, which requires that the reference at the bottom of the page is done not only for acts of the EU, but also for other acts of international organizations, which the EU considers as part of its *acquis*.

### ***Review for the second time the project act by the interested ministries and institutions***

In point 30 of the Regulation is added a paragraph, which requires that, in cases where the nature of the project act is complex, or when during the reflection of the opinions of one or more ministers, become invalid or affected the views of one or more ministers, the proposing minister, after reflecting the received feedback, should resubmit once again the act for opinion to the affected ministries or institutions.

This will enable that the views given by various ministers, are also made known to other ministers and not only the proposing minister. This change directly and positively affects the quality of the project act.

### ***Review of the proposed annex entitled "Format of the explanatory report"***

By Ministry of Integration are proposed to be added some points dealing with:

- a) the fulfillment of the government's strategic objectives of the project act and specific objectives of the SAA.
- b) the status of the project act proposed in the rule of law;
- c) the design or not of the project act with the help of foreign specialists;
- d) the Albanian translation of the *acquis* act of the EU, which is aligned.

### ***Replacement of compatibility tables***

The compatibility tables, which are located in the annex, attached to the regulation, have been replaced with a new model table, used and requested by the European Commission. Also, the annex is rewritten

considering the developments in the European Integration process, and to better reflect the requirements for harmonization of legislation, and the possibility of better filling the compatibility tables.

### ***Replacement of the term "acquis communautaire" with the term "EU acquis"***

In the entire text of the regulation is made this change in order to reflect the changes brought by the entry into force of the Lisbon Treaty.

Besides the above changes, in the project decision are reflected some proposed changes, which are related to the assessment of the effects, on project acts that could have an effect on aspects of gender equality, as well as establishing the obligation to obtain an opinion from the Commissioner for Protection from Discrimination, in cases when the sphere of relations regulated by the project act can be associated with effects on different aspects, that are part of the mission of the Commissioner Institution.

### ***Institutions and organs responsible for the implementation of the act***

Four groups of institutions are responsible for applying the changed regulation of the Council of Ministers:

- Prime Minister's Office will be responsible for quality control of the preparation and presentation of the project act, for quality control of explanatory reports and to review them for the approximation of legislation.
- All ministries: will continue to be responsible for the process of preparing acts, to fill the explanatory report according to normal legislative procedures and submit the draft for consideration at Prime Minister's Office.
- MZHETTS will coordinate and monitor the system of RIA / RIA in Albania, according to the decisions of the Regulatory Reform Task Force.
- Ministry of Integration will continue to be responsible for controlling the process of approximation.

In these conditions is currently being implemented RIA light in Albania. According to it for any change that the Prime Minister's Office will make to laws through DCMs, must fulfill the format of the explanatory report accompanying reasoning for the change. The format of the explanatory report is as follows.

The purpose of the changes proposed by the Ministry of Economy, Trade and Energy and the Ministry of Integration is to provide Albania to start using a more simplified process, to prepare more effective laws and regulations, and improve the process of approximation of legislation with the acquis in the EU.

In this context, is required a change of DCM no.584, dated 28.08.2003 "On approval of the Council of Ministers Regulation" (Regulation of Prime Minister's Office), so that the Government may be able to assess the potential impacts of the new proposed legislation, by applying in this way the Regulatory Impact Assessment (RIA) system.

The introduced changes aimed at improving the quality of legislation in Albania and the process of harmonization of legislation with the acquis in the EU, respecting fair competition in the market, providing a more powerful dimension in the implementation of anti-discrimination and the gender equality law and the establishment of a guarantee to avoid adopting legislation with discriminatory consequences.

The improvement of the legal framework under the Regulatory Reform has been a stated priority of the Government of Albania in October 2005. For this purpose, the establishment of the RIA system to guarantee the quality of the regulatory framework has been provided as a key element of Government's policies adopted by DCM no.157, dated 15.03.2006 "On approval of the Action Plan for Regulatory Reform to improve the business climate".

On 26 October 2010, the Task Force on Regulatory Reform, headed by the Prime Minister, discussed and approved the establishment of the RIA system in Albania, starting with the simplest system (**RIA Light**).

Construction of this system consists of legal regulations of the Rules of the Council of Ministers (CoM).

The establishment of the RIA is a necessity for the development of the business sector in Albania, but is also expressed in the strategic documents adopted by the Government in the framework of European Integration. Consequently, the proposed changes to the rules of Prime Minister's Office are in full compliance with the political goals of the government program, the national strategies and the process of European Integration.

On the other hand, the stage in which the Albania is, in its path towards the European Union when it was approved the status of candidate country, a very important element is the approximation of legislation with the *acquis* in the EU as an obligation raised from the SAA.

**Following is presented format of the explanatory report:**

## **FORMAT OF THE EXPLANATORY REPORT**

### **THE TITLE OF THE PROJECT ACT**

Drafter should take care that the title is easily understood and correctly reflects the objective, which legislation aims to achieve.

### **2. WHICH MINISTRY IS RESPONSIBLE FOR THE PREPARATION OF THE PROJECT ACT?**

At this point is set the name of the Ministry that directs policy development and is responsible for drafting the legislation for the field and has prepared the project act.

### **3. WHAT IS THE COMPOSITION OF THE WORKING GROUP THAT IS RESPONSIBLE FOR THE PREPARATION OF THE PROJECT ACT AND THE EXPLANATORY REPORT?**

At this point are set the names of members of the working group. Also we have to mention a contact person for the explanatory report.

### **4. HOW IS THE PROJECT ACT LINKED WITH THE ANNUAL LEGISLATIVE PROGRAM OF THE COUNCIL OF MINISTERS?**

The report should describe how the prepared project act is linked to the Annual Legislative Program (ALP) prepared by the Council of Ministers and with the main strategic objectives of the Government and the Integrated Planning System (IPS).

### **5. WHICH IS THE PROBLEM THAT WILL BE TAKEN IN CONSIDERATION?**

The problem must be described shortly, which the proposed project act aims to solve, should be given evidence about the extent of the problem and to explain the context in which it was born, its importance and the need to resolve it.

### **6. WHAT IS THE OBJECTIVE AND THE EXPECTED RESULT?**

It should be clearly stated the objectives of the proposed measure and explain what aims to achieve the proposed policy. It should also explain the expected effects as a result of the implementation of the proposed policy.

### **7. WHAT OPTIONS ARE TAKEN INTO CONSIDERATION?**

It should be described which options are taken into consideration for solving the problem. They should include 'option to not act' and non-regulatory options and to explain why these alternative options were not adopted.

## **8. WHAT ARE THE POTENTIAL COSTS OF THE NEW LAW?**

It is given the summary of the potential costs that may be incurred if the new law is adopted.

There are two main categories of costs that should be considered:

Administrative costs are the costs that weigh on government in developing the proposal, plus the costs of government that reappear every year through inspection and other means by which is ensured compliance and law enforcement. These costs include, in most cases, the costs of employment and may also include capital costs in the form of new equipment and information technology.

Costs for agreement of the law are covered by businesses or individuals which are affected by the new law. These can consist of labor costs incurred in providing the obedience to the law (for example, obtaining licenses or permits, as well as regular reporting to government authorities). It may also have capital costs if the firms were required to buy new equipment to obey regulatory requirements.

## **9. WHAT ARE THE POTENTIAL BENEFITS OF THE NEW LAW?**

Complying with point 5 above it should be examined the key objectives of the proposal. Then it should be set a measurable indicator for each target and should be given a growth forecast that every indicator might suffer if the new legislation is adopted.

## **10. BUDGET REVIEW: WHAT ARE THE POTENTIAL IMPACTS ON THE NEW LAW ON PUBLIC EXPENDITURE AND INCOME?**

At this point it should be reflected sufficient information on the impacts of the proposal in terms of public costs and revenues.

(A) Change in costs: this figure can be appreciated already in question 8 of the format as part of 'administrative costs'. However, to the question no. 10, the anticipated changes in public expenditure should be reported separately for each public institution annually for three consecutive years.

(B) Change in income: the impact of the new measure on public revenues (for example, fees or fines paid by enterprises, or an indirect change on VAT if there are changing levels of consumption as a result of the new regulation) must be forecasted each year, for three consecutive years, and each public institution in particular.

## **11. WILL THE NEW LAW HAVE AN IMPACT ON THE SMALL BUSINESS SECTOR?**

At this point must be given certain information about the impact that the new law will have on small enterprise sector. This impact can be positive or negative.

## **12. WILL THE NEW LAW HAVE AN IMPACT ON FAMILIES AND/OR REGIONS WITH LOW INCOME?**

At this point needs to be explained how the proposal could affect to vulnerable groups (particularly families with low incomes and regions / disadvantaged areas) in society. You should consider the positive effects as well as negative ones.

## **13. WILL THE NEW LAW HAVE AN IMPACT ON THE ENVIRONMENT?**

At this point should be identified the potential impacts (positive impact as well as negative ones) on the environment and be given complete information about the meaning and scope of these impacts.

#### **14. HOW WILL THE NEW MEASURE BE APPLIED?**

At this point is given information on the way and implementation of new measures proposed in the prepared project act. It should also be given information on the monitoring of the implementation measures. Especially should be given information about:

- (A) the responsible institution for the mandatory implementation;
- (B) costs of submitting control on the new measure and the mandatory implementation (these costs should already be assessed as part of the administrative costs to the question 8);
- (C) sanctions that will be applied for not obeying the new measure.

#### **15. WHICH NON-GOVERNMENTAL ORGANIZATIONS WERE CONSULTED FOR THE PREPARATION OF THE PROJECT ACT? WHICH WERE THEIR COMMENTS?**

At this point is given information on the evidence and opinions received from stakeholders during the non-governmental consultation process. In particular, can be given brief information on:

- (A) organizations and individuals who were consulted;
- (B) comments received from any organization / individual who was consulted.

#### **16. WHICH MINISTRIES AND GOVERNMENT INSTITUTIONS WERE INVITED TO COMMENT THE EXPLANATORY REPORT OF THE LEGAL PROJECT ACT? WHAT COMMENTS HAVE YOU RECEIVED FROM THE OTHER MINISTRIES?**

At this point must be given information on the comments made by other ministries or by government or non-government organizations to which was sent the project act for comments. Also should be given information on whether and to what extent these comments were considered and reflected in the project act and the reasons for not reflecting them.

#### **17. IS THE RESPONSIBILITY OF THE PROPOSING MINISTRY TO CONDUCT A REVIEW AFTER THE IMPLEMENTATION OF THE NEW LAW. IN THIS SECTION YOU MUST DETERMINE WHEN WILL THE NEW LAW BE EXAMINED TO EVALUATE THE DEGREE OF ACHIEVEMENT OF OBJECTIVES?**

At this point it must be given information on the determined period of which must be carried out to review the act after its entry into force. It should also be described which is responsible for conducting the review and the ministry which is responsible for overseeing the review.

#### **18. WHAT IS THE PROJECT LAW COMPLIANCE WITH THE ACQUIS COMMUNAUTAIRE?**

For the purpose of European integration and harmonization of legislation with the *acquis communautaire*, the report is supplemented with additional information as required in the attached Annex as well as compatibility filled tables.

## **19. THE SIGN OF THE MINISTER**

I read the report and I am pleased that (a) it represents a fair view and reasonably expected costs, benefits and impacts of the proposed new law and (b) that the benefits justify the costs.

The name of the Minister \_\_\_\_\_

The Ministry \_\_\_\_\_

The sign of the Minister \_\_\_\_\_

Data \_\_\_\_\_



IP3

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